

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

HOUSE BILL 2673

By: Staggs

AS INTRODUCED

An Act relating to schools; transferring the powers and duties of the Commission for Rehabilitation Services for the Oklahoma School for the Blind and the Oklahoma School for the Deaf to the State Board of Education; providing for the transfer of assets and liabilities; providing for the transfer of employees; transferring monies; allowing the Board to establish funds and accounts; providing for the succession of contractual rights and responsibilities; providing for the enforcement of rules; amending 10 O.S. 2001, Sections 1418, as amended by Section 4, Chapter 543, O.S.L. 2004 and 1419, as last amended by Section 1, Chapter 379, O.S.L. 2005 and Section 2, Chapter 93, O.S.L. 2003 (10 O.S. Supp. 2005, Sections 1418, 1419 and 1419a), which relate to the Oklahoma School for the Blind and the Oklahoma School for the Deaf; changing references from the Commission for Rehabilitation Services to the State Board of Education; deleting obsolete language; repealing 10 O.S. 2001, Section 1420, which relates to the transfer of the Oklahoma School for the Blind and the Oklahoma School for the Deaf; providing for codification; providing for recodification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 27-101 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. Effective July 1, 2006, all powers, duties, functions, and responsibilities the Commission for Rehabilitation Services have for the Oklahoma School for the Blind and the Oklahoma School for the Deaf shall be transferred to the State Board of Education. The transfer shall include all real property, buildings, furniture, equipment, supplies, records, personnel, assets, current and future

liabilities, fund balances, encumbrances, obligations, and indebtedness associated with the Oklahoma School for the Blind and the Oklahoma School for the Deaf.

B. All employees of the Commission for Rehabilitation Services assigned to the Oklahoma School for the Blind and the Oklahoma School for the Deaf on the effective date of this act shall be transferred to the State Board of Education with retention of pay and benefits, as much as possible, including longevity, dependent insurance benefits, seniority, rights, and other privileges or benefits.

C. All monies remaining in any funds or accounts in the name of the Oklahoma School for the Blind and the Oklahoma School for the Deaf or maintained for the benefit of the schools are transferred to the State Board of Education.

D. The State Board of Education may establish appropriate funds and accounts for servicing the fiscal operations of the Oklahoma School for the Blind and the Oklahoma School for the Deaf.

E. The State Board of Education shall succeed to any contractual rights and responsibilities the Commission for Rehabilitation Services has incurred on behalf of the Oklahoma School for the Blind and the Oklahoma School for the Deaf.

F. The rules of the Commission for Rehabilitation Services relating to the operation of the Oklahoma School for the Blind and the Oklahoma School for the Deaf that are in effect on July 1, 2006, shall be enforceable by the State Board of Education until the Board establishes new rules.

SECTION 2. AMENDATORY 10 O.S. 2001, Section 1418, as amended by Section 4, Chapter 543, O.S.L. 2004 (10 O.S. Supp. 2005, Section 1418), is amended to read as follows:

Section 1418. A. ~~The Commission for Rehabilitation Services~~ State Board of Education shall have the supervision, management and control of the Oklahoma School for the Blind and the Oklahoma School

for the Deaf, and, ~~in addition to the powers and duties now vested in the State Board of Education as to each of such institutions,~~ shall have authority to adopt such rules as it deems necessary for the government and operation of each institution, and for the admission and discharge of pupils at each institution. No easement, right-of-way, oil and gas lease or surface lease on any land used or occupied by either institution, or any other institution under the jurisdiction of the ~~Commission Board~~, shall be granted or conveyed without the approval of the ~~Commission Board~~; and all money hereafter received therefor or derived therefrom, including rentals and royalties from leases executed prior to July 1, 1965, shall be deposited in the revolving fund of the institution and be used by the ~~Commission Board~~ for the purposes of the institution. The ~~Commission Board~~ may participate in federal programs for the benefit of blind or deaf persons, and may receive and administer federal funds for such purposes. The ~~Commission Board~~ is hereby expressly granted every power necessary or convenient to make such institutions effective for the purposes for which they were created. The provisions of this section shall not affect the type of school maintained at either institution.

B. The Oklahoma School for the Blind and the Oklahoma School for the Deaf shall be considered local educational agencies only for the purpose of participating in federal programs and receiving federal funds disbursed by the State Department of Education to local educational agencies, if the schools meet the eligibility requirements for the federal programs.

SECTION 3. AMENDATORY 10 O.S. 2001, Section 1419, as last amended by Section 1, Chapter 379, O.S.L. 2005 (10 O.S. Supp. 2005, Section 1419), is amended to read as follows:

Section 1419. A. The ~~Commission for Rehabilitation Services~~ State Board of Education shall establish and maintain such methods of administration, including methods relating to the establishment

and maintenance of personnel standards, as are necessary for the proper and efficient administration of the Oklahoma School for the Blind and the Oklahoma School for the Deaf, and programs thereat; shall maintain records and reports, shall provide a uniform accounting system; and shall incur such expenses and make such expenditures as it deems necessary to maintain and operate such schools.

B. 1. Instructional Personnel. The ~~Director of the State Department of Rehabilitation Services~~ Board shall employ or contract with such qualified instructional personnel including, but not limited to, teachers, and such other persons serving in an instructional capacity, as the ~~director~~ Board deems necessary for the proper operation of each school and shall fix their duties and compensation. The superintendent, teachers and other employees shall be eligible for membership or participation in the Teachers' Retirement System of Oklahoma to the same extent and on the same basis as teachers and other employees of other state educational institutions and public schools. The ~~Director~~ Board shall not employ or contract with a person as instructional personnel unless the superintendent of the school has recommended that person. If there is a vacancy in the superintendent position or if the superintendent is unable to make a recommendation within thirty (30) days after a request for a recommendation is made, the ~~Director~~ Board is authorized to employ or contract with any person without a recommendation from the superintendent.

2. Career Teacher. A career teacher is a member of the instructional staff who has served in an instructional capacity for three (3) or more consecutive years in either school, or who has served in a public school district in such a way so as to meet the definition of a career teacher as provided for in Section 6-101.3 of Title 70 of the Oklahoma Statutes. Career teacher shall not include a school nurse.

3. Probationary Teacher. A probationary teacher is a member of the instructional staff who has served in an instructional capacity for less than three (3) consecutive years in either school, or who has served in a public school district in such a way so as to meet the definition of a probationary teacher as provided for in Section 6-101.3 of Title 70 of the Oklahoma Statutes.

C. Administrative Personnel.

1. The ~~Director of the State Department of Rehabilitation Services~~ Board shall employ or appoint the superintendent of each school and shall fix their duties and compensation. The superintendents shall be in the unclassified service.

2. The ~~Director of the State Department of Rehabilitation Services~~ Board shall employ or contract with such other administrative personnel as the ~~Director~~ Board deems necessary for the proper operation of each school and shall fix their duties and compensation. The administrative personnel may include, but is not limited to, assistant superintendents, principals, vice-principals and other persons who devote a majority of their time to service in a supervisory or administrative capacity.

D. An orientation and mobility specialist employed by the ~~State Department of Rehabilitation Services~~ Board to serve at the Oklahoma School for the Blind shall be accorded the same protection of laws and all other benefits accorded instructional personnel, including but not limited to, the minimum salary level for instructional personnel.

E. 1. The ~~Commission~~ Board shall, pursuant to the Administrative Procedures Act, adopt personnel policies for instructional and administrative personnel, except for superintendents, that are consistent with the law applicable to public school district employees, including, but not limited to, leave and employment policies, evaluation policy, grievance procedures, professional development, and a minimum salary schedule.

The ~~Commission~~ Board shall initiate a rulemaking process for the personnel policies for instructional and administrative personnel no later than October 1, ~~2003~~ 2006. The minimum salary level for qualified instructional personnel shall meet or exceed the minimum salary level provided for public school teachers in Section 18-114.12 of Title 70 of the Oklahoma Statutes or any additional minimum salary schedule enacted by the Legislature and the ~~Commission~~ Board shall meet or exceed any other legislatively mandated pay raises for teachers that are not part of the minimum salary schedule. The ~~Department~~ Board shall notify teachers and other personnel on or before April 10 of each year concerning the renewal of contracts consistent with the requirements for public school teachers as provided for in Section 6-101 of Title 70 of the Oklahoma Statutes. The policy for professional development programs for instructional and administrative personnel shall be consistent with the requirements for professional development programs for public school teachers as provided in Section 6-194 of Title 70 of the Oklahoma Statutes.

2. Final disciplinary action taken against a member of the instructional or administrative staff, except superintendents, including termination or the nonrenewal of a contract, shall be subject to the administrative hearing procedures as set forth in Article II of the Oklahoma Administrative Procedures Act. If the final decision of the ~~Director~~ Board is to terminate or to not renew the contract of a career teacher or administrator, the career teacher or administrator, except superintendent, shall not have a right to judicial review pursuant to Article II of the Oklahoma Administrative Procedures Act, but shall have a right to a trial de novo as provided for in Section ~~2~~ 4 of this act. Disciplinary action against a probationary teacher shall be final unless otherwise provided for by law.

F. The State Department of Education shall insure that any funds which have been received in Oklahoma by the State Department of Education because of students who are enrolled and attending the Oklahoma School for the Blind and the Oklahoma School for the Deaf are ~~transferred to the State Department of Rehabilitation Services for use by~~ allocated to these schools in proportion to the number of students enrolled and attending who were the basis for the receipt of these federal funds.

G. School personnel who have entered into contracts with the schools on or before July 1, 1995, shall be entitled to longevity pay as provided in Section 840-2.18 of Title 74 of the Oklahoma Statutes.

SECTION 4. AMENDATORY Section 2, Chapter 93, O.S.L. 2003 (10 O.S. Supp. 2005, Section 1419a), is amended to read as follows:

Section 1419a. A. A career teacher, as described in Section ~~1419 of Title 10 of the Oklahoma Statutes~~ 3 of this act, or any administrative personnel other than a superintendent who has been dismissed or whose contract has not been renewed shall be entitled to a trial de novo in the district court of the county in which the school is located.

B. In the event that a career teacher is dismissed or the teacher's contract is not renewed, the ~~Director of the State Department of Rehabilitation Services~~ State Board of Education shall notify the teacher of the right to trial de novo within ten (10) days of receipt of the final order ~~of the Director~~.

C. Within ten (10) days of receipt of the notification of the right to a trial de novo, the career teacher may file a petition for a trial de novo.

Upon filing the petition, the court clerk shall issue a summons and cause service by mail to be made upon the ~~State Department of Rehabilitation Services~~ Board by certified mail, restricted delivery

with return receipt requested, or substitute process as provided by law.

D. If, within the ten-day period, the career teacher fails to file a petition for a trial de novo concerning the dismissal or nonreemployment, the teacher shall be deemed to have waived the right to trial de novo and the decision of the ~~Director~~ Board to dismiss or not to renew the contract shall be final.

E. The ~~Department~~ Board shall serve its answer within twenty (20) days of the service of summons and petition upon it. The trial de novo shall be scheduled at the earliest possible date which will permit both parties adequate time to prepare for a just trial of the issues involved; provided, however, said trial de novo shall be scheduled and held not less than ten (10) days and no later than thirty (30) days after the answer has been filed.

F. Except as otherwise provided specifically in this section, the law generally applicable to civil suits filed in district court shall apply to the proceedings for trial de novo under this section. At the trial de novo the standard of proof shall be by the preponderance of the evidence and the burden of proof shall be on the ~~State Department of Rehabilitation Services~~ Board to establish de novo that the career teacher's dismissal or nonreemployment is warranted. The trial de novo shall proceed as a nonjury trial before the court. The court shall determine de novo all issues of fact and law necessary for full adjudication of the dispute at the trial. The court shall not, by applying principles of collateral estoppel or res adjudicata or otherwise, give preclusive effect to findings of fact of determinations of the ~~Director~~ Board with regard to the issue necessary to determine the adequacy of the dismissal or nonreemployment of the career teacher in the trial de novo. Within three (3) days following the conclusion of the trial de novo, the judge shall prepare written findings of fact and conclusions of law and shall enter judgment directing either of the following:

1. That the ~~State Department of Rehabilitation Services Board~~ State Department of Rehabilitation Services Board reinstate the career teacher with full employment status and benefits; or

2. That the decision of the ~~State Department of Rehabilitation Services Board~~ State Department of Rehabilitation Services Board for the dismissal or nonreemployment of the career teacher be sustained.

G. The time limits set forth in this section for the proceedings before the district court may be extended by mutual agreement of the parties with the approval of the district court.

H. The decision of the district court shall be final and binding upon the career teacher and the ~~State Department of Rehabilitation Services Board~~ State Department of Rehabilitation Services Board unless the teacher or the ~~Department Board~~ Department Board appeals the decision of the district court in the manner provided by law for the appeal of civil cases from the district court.

I. This section shall not apply to the following:

1. Superintendents;

2. Instructional personnel serving under a temporary contract or as a substitute teacher as defined in Section 6-105 of Title 70 of the Oklahoma Statutes; and

3. Probationary teachers.

SECTION 5. RECODIFICATION 10 O.S. 2001, Section 1418, as last amended by Section 2 of this act, shall be recodified as Section 27-102 of Title 70 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 6. RECODIFICATION 10 O.S. 2001, Section 1419, as last amended by Section 3 of this act, shall be recodified as Section 27-103 of Title 70 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 7. RECODIFICATION 10 O.S. 2001, Section 1419a, as amended by Section 4 of this act, shall be recodified as Section

27-104 of Title 70 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 8. REPEALER 10 O.S. 2001, Section 1420, is hereby repealed.

SECTION 9. This act shall become effective July 1, 2006.

SECTION 10. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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